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FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 8958
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHPH/CDC ATLANTA GA
RHEHNSC/NSC WASHDC
RUEAUSA/DEPT OF HHS WASHDC
RUEAWJA/DEPT OF JUSTICE WASHDC
RUEHGV/USMISSION GENEVA 7774

C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 000921

SIPDIS

DEPT FOR EAP, EAP/MTS, OES/IHA, L/DL FOR DICKERSON
USAID FOR ANE/CLEMENTS AND GH/CARROLL
DEPT PASS TO HHS/WSTEIGER/ABHAT/MSTLOUIS AND HHS/NIH
DEPT PASS TO USDA/FAS/OSTA BRANT, ROSENBLUM
DOJ FOR OFL/HOLLIS
GENEVA FOR WHO/HOHMAN
NSC FOR EPHU

E.O. 12958: DECL: 05/09/2018
TAGS: [PGOV](#) [TBIO](#) [KFLU](#) [KLIB](#) [ID](#)
SUBJECT: FOREIGN MINISTRY NON-COMMITTAL ON AVIAN FLU LAWSUIT

REF: A. JAKARTA 854
[1](#)B. JAKARTA 843
[1](#)C. JAKARTA 786
[1](#)D. STATE 43100

Classified By: Poloff Adam West for reasons 1.4(b) and (d).

[1](#)1. (C) SUMMARY: A Foreign Ministry official was non-committal on whether the Ministry (DEPLU) could put an end to a lawsuit filed in a local court in April. The suit was brought by the family of an Indonesian victim of Avian Influenza (AI). An initial hearing is currently scheduled for May 13, but post was not properly served and does not plan to attend based on instructions from L/DL. DEPLU in turn requested our assistance on several cases in U.S. courts that involve the GOI as a litigant. END SUMMARY.

[1](#)2. (C) Post DOJ Resident Legal Advisor (RLA) and poloff met May 9 with Arif Havas Oegroseno, Director of DEPLU's Department of Political, Legal and Regional Treaties. (Note: A Harvard educated lawyer, Oegroseno was chosen for the approach due to his familiarity with the U.S. perspective on legal matters.) RLA explained the circumstances of the case and the impossibility of the plaintiff ever collecting damages from the USG due to international agreements on sovereign immunity. He suggested that DEPLU may want to get involved in the case to prevent further escalation of current misunderstandings surrounding the issue of Avian Influenza (ref A). Oegroseno was sympathetic to these arguments and indicated that he would send a letter to the court advising them that the Embassy would not attend the May 13 hearing. However, he was non-committal on whether DEPLU would be able to halt the proceedings.

[1](#)3. (SBU) The lawsuit was filed in March by the father of an AI victim who passed away in January (ref B). The suit alleges that the USG, along with the World Health Organization, bears responsibility for the death. The case is based on charges made in Minister of Health Siti Fadilah Supari's recent book, "It's Time for the World to Change: Divine Hand Behind Avian Influenza." The plaintiff requests financial compensation of approximately \$250,000 and that the defendants place a printed apology in five print media outlets. An initial hearing scheduled for April 22 was postponed after the initial summons to the Embassy was improperly served based on instructions from L/DL (refs C and D). A second summons for the May 13 hearing was also improperly served.

14. (SBU) Oegroseno went on to request post assistance on several cases currently underway in U.S. courts involving the GOI. The three cases, as described by Oegroseno, are as follows:

--A suit filed by State-run oil company Pertamina seeking to lift an anti-suit injunction imposed on it by New York District Court and currently pending review at the U.S. Supreme Court. The injunction is preventing Pertamina from filing a suit in the Cayman Islands against Karaha Bodas Company (KBC).

--A class action suit, "Refined Petroleum Products Anti-Trust Litigation" currently before the Federal Court Southern Texas District. The case targets OPEC member countries, including the GOI. Pertamina is also listed as a co-conspirator.

--An attempt by a U.S. firm, Perry H. Koplik and Sons, to re-try a case against Indonesian PT. Bank Mandiri in the U.S. Bankruptcy Court for the Southern District of New York. The case had already been tried in Indonesian court, which ruled in favor of Bank Mandiri, and the verdict was upheld by the Indonesian Supreme Court. According to Oegroseno, Koplik is now trying to re-try the case in the U.S. based on complaints of widespread corruption in the Indonesian judiciary and has cited DOS's 2003 Human Rights Report on Indonesia in support of its claim. In 2006, the Bankruptcy Court denied a motion by Bank Mandiri to dismiss the case.

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15. (C) While it seems unlikely that Oegroseno was proposing any kind of quid-pro-quo regarding these cases, in raising them he has highlighted the difficulties involved in asking the executive to interfere in a domestic judicial proceeding. The lawsuit has not received significant press coverage to date, but that could change if the hearing takes place as scheduled on May 13. Given the current environment surrounding the AI issue, such publicity is likely to be highly negative towards the USG.
HUME